

TITLE 327 WATER POLLUTION CONTROL BOARD

IDEM'S SUGGESTED CHANGES TO PROPOSED RULE AS

PRELIMINARY ADOPTED

LSA Document #99-111 (WPCB)

Amends 327 IAC 5-2-11.7 concerning Great Lakes system discharges interim antidegradation implementation procedures for outstanding state resource waters. Effective 30 days after filing with the secretary of state.

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327 IAC 5-2-11.7(a)(1)

Delete the following language after (a)(1):

“Except as provided in subsection (b), (c), or (d), for a new or increased discharge of a pollutant or pollutant parameter from an existing Great Lakes discharger directly into an ~~outstanding state resource water~~ OSRW for which a new or increased permit limit would be required, the wasteload allocation (WLA) for the pollutant or pollutant parameter ~~for the~~ shall be based on the new or increased discharge and shall be set equal to the representative background level of the pollutant as determined under section 11.4(a)(8) of this rule. The WLA for the existing discharge and the WLA for the new or increased discharge shall be added together to obtain the WLA that shall be used to establish the WQBELs. ~~in accordance with section 11.6 of this rule.~~ For the purpose of this subdivision, “WLA” means the value used to calculate monthly average and daily maximum NPDES permit limitations using the formula in section 11.6(c) of this rule.”

Insert the following language after A(1)”:

“This subdivision applies to an existing Great Lakes discharger discharging under a valid NPDES permit directly into a waterbody designated as an OSRW.

(A) This clause applies to a proposed discharge of a new pollutant or pollutant parameter for which the monthly average mass discharged would be greater than ten percent (10%) of the unused loading capacity, as defined in subsection (c)(5), for the pollutant or pollutant parameter.

(i) As used in this clause, “new” means a new pollutant or pollutant parameter that is proposed to be discharged and was not being discharged by an existing NPDES permittee as of the effective date of this section.

(ii) Except as provided in subsection (b), (c), (d) or (f), NPDES permit limits for the proposed new discharge of a pollutant or pollutant parameter shall be established as follows:

(AA) Determine the representative background concentration of the pollutant or pollutant parameter in the receiving waterbody using section 11.4(a)(8) of this rule. This concentration value shall be converted to a mass value using the discharge flow determined using section 11.4(a)(9) of this rule.

(BB) The mass value determined in subitem (AA) shall become the monthly average mass effluent limitation.

(B) This clause applies to a proposed increase in the discharge of any pollutant or pollutant parameter that is limited in an existing NPDES permit, which would cause an increase in the monthly average mass effluent limitation in the permit or the monthly average mass effluent limitation calculated under item (ii) when the permit contains an effluent limitation other than a monthly average mass effluent limitation for that pollutant or pollutant parameter. Except as provided in subsection (b), (c), (d) or (f), NPDES permit limits for the proposed increase in the discharge of a pollutant or pollutant parameter shall be established as follows:

(i) Determine the representative background concentration of the pollutant or pollutant parameter in the receiving waterbody using section 11.4(a)(8) of this rule. This concentration value shall be converted to a mass value using the proposed increase in the discharge flow.

(ii) Determine the monthly average mass limitation for the pollutant or pollutant parameter in the existing NPDES permit. If the existing permit does not contain a monthly average mass effluent limitation for the pollutant or pollutant parameter, the existing weekly average or daily maximum permit limit shall be converted into a monthly average value. If the existing permit does not contain a mass limit for the pollutant or pollutant parameter but does contain a concentration limitation, the concentration limitation shall be converted to a mass value using the discharge flow determined under section 11.4(a)(9) of this rule.

(iii) Add the monthly average mass values determined in items (i) and (ii) together. This sum then becomes the new monthly average mass effluent limitation.

(iv) Notwithstanding items (i) through (iii), if the proposed increase in mass is not a result of an increase in discharge flow, the commissioner shall calculate the monthly average mass effluent limitation on a case by case basis.

(C) This clause applies to a proposed increase in the discharge of any pollutant or pollutant parameter that was being discharged as of the effective date of this section but is not limited in an existing NPDES permit, which would trigger the need for a monthly average mass effluent limitation for the existing discharge. Except as provided in subsection (b), (c), (d)

or (f), NPDES permit limits for the proposed increase in the discharge of a pollutant or pollutant parameter shall be established as follows:

- (i) Determine the representative background concentration of the pollutant or pollutant parameter in the receiving waterbody using section 11.4(a)(8) of this rule. This concentration value shall be converted to a mass value using the proposed increase in the discharge flow.
 - (ii) Determine a monthly average mass effluent limitation for the pollutant or pollutant parameter for the existing discharge.
 - (iii) Add the mass values determined in items (i) and (ii) together. This sum becomes the new monthly average mass effluent limitation for the pollutant or pollutant parameter.
 - (iv) Notwithstanding items (i) through (iii), if the proposed increase in mass is not a result of an increase in discharge flow, the commissioner shall calculate the monthly average mass effluent limitation on a case by case basis.
- (D) Clauses (A), (B), and (C) do not apply to new or increased discharges of BCCs. If there is a proposed increase in the discharge of a BCC and the proposed increase is attributable to a deliberate action by the permittee and the proposed increase does not qualify under subsection (b) or (c), the commissioner shall deny the request.
- (E) The following provisions apply to existing Great Lakes dischargers proposing a new or increased discharge of a pollutant or pollutant parameter.
- (i) An existing Great Lakes discharger proposing to (a) discharge a new pollutant or pollutant parameter, or (b) increase the discharge of any pollutant or pollutant parameter, unless the increase is due to one or more of the reasons provided in subsection (b), shall first provide written notice to the commissioner. The notice shall specify the new or increased pollutant or pollutant parameter proposed to be discharged and the amount.
 - (ii) Upon receipt of the notice, the commissioner shall provide public notice and opportunity for comment. The notice shall contain the information required in 327 IAC 5-2-11.2(b)(2)(A)-(G) and shall be provided in accordance with the provisions of 327 IAC 5-2-11.2(b)(1).
 - (iii) The commissioner shall determine whether new or different permit limitations are required pursuant to the provisions of clause (A), (B) or (C) for the pollutant or pollutant parameter. The commissioner shall provide notice of the determination in accordance with the provisions under 327 IAC 5-2-11.2(b)(1) and the applicable provisions of IC 4-21.5-3.”

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5-2-11.7(a)(2)

Delete: “it” in clause B.

Insert: “the discharge” after clause (B).

Delete: “When one or more of the items listed in section 11.3(b)(1)(C)(i), 11.3(b)(1)(C)(ii), 11.3(b)(1)(C)(iii)(AA), 11.3(b)(1)(C)(iii)(FF), or 11.3(b)(1)(C)(iii)(II) apply, the requirements of this section are met. When one or more of the subitems in 11.3(b)(1)(C)(iii)(BB), 11.3(b)(1)(C)(iii)(CC), 11.3(b)(1)(C)(iii)(GG), 11.3(b)(1)(C)(iii)(HH), or 11.3(b)(1)(C)(iii)(LL) apply, the applicant demonstrates that the increases are necessary, and the public notice requirements in subsection (c)(6) are met, the requirements of this section are met. When one or more of the subitems in 11.3(b)(1)(C)(iii)(DD), 11.3(b)(1)(C)(iii)(JJ), or 11.3(b)(1)(C)(iii)(KK) apply, the applicant demonstrates that the increases are necessary and that they will result in a net environmental improvement, and the public notice requirements in subsection (c)(6) are met, the requirements of this section are met.”

Insert the following language after clause B:

- “(C) The requirements of this subdivision will be considered to have been met when:
- (i) one (1) or more of the items listed in section 11.3(b)(1)(C)(i), 11.3(b)(1)(C)(ii), 11.3(b)(1)(C)(iii)(BB), 11.3(b)(1)(C)(iii)(FF), or 11.3(b)(1)(C)(iii)(II) of this rule apply; or
 - (ii) All three (3) of the following are met:
 - (AA) one (1) or more of the subitems in section 11.3(b)(1)(C)(iii)(AA), 11.3(b)(1)(C)(iii)(CC), 11.3(b)(1)(C)(iii)(EE), 11.3(b)(1)(C)(iii)(GG), 11.3(b)(1)(C)(iii)(HH), or 11.3(b)(1)(C)(iii)(LL) of this rule apply,
 - (BB) the applicant demonstrates that the increase is necessary, and
 - (CC) the public notice requirements in subsection (c)(6) are met; or
 - (iii) All four (4) of the following are met:
 - (AA) one (1) or more of the subitems in section 11.3(b)(1)(C)(iii)(DD), 11.3(b)(1)(C)(iii)(JJ), or 11.3(b)(1)(C)(iii)(KK) of this rule apply,
 - (BB) the applicant demonstrates that the increase is necessary,
 - (CC) the applicant demonstrates that it will result in a net environmental improvement, and
 - (DD) the public notice requirements in subsection (c)(6) are met.

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5-2-11.7(a)(2)

Insert “(D)” before “As used in this subdivision”

Delete “stream” and insert “waterbody” in both places in (D).

Page 5

5-2-11.7(a)(3)

Insert “directly” after “For all discharges”

Page 5

5-2-11.7(a)(3)(B)

Insert: “at least one (1) of the exceptions under” after “~~Unless~~ If the increased discharge of the BCC ~~qualifies~~ does not qualify under ~~at least one (1) of the exceptions under~~”.

Delete: “reduction or” after “the commissioner shall require”.

Page 6

5-2-11.7(b)(1):

Delete: “or” and add “including” before “heat”.

Page 7

5-2-11.7(c)(1)(D):

Delete: “~~substance~~ pollutant or pollutant parameter used to treat ~~zebra mussels~~ nuisance species in an intake water pipe or structure, ~~if the new or increased discharge will not cause adverse effects to human health~~” after “New or increased discharges of a ...”

Insert: “wastewater or water treatment additive, as defined in subsection (f).” after “New or increased discharges of a.”

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5-2-11.7(c)(1)

Insert the following after clause E:

“(F) New or increased discharges of heat that will not result in an increase in temperature:
(i) in a stream, outside of the designated mixing zone, where applicable; or
(ii) in Lake Michigan, as allowed in 327 IAC 2-1.5-8(c)(4)(D)(iv), at the edge of a one thousand (1,000) foot arc inscribed from a fixed point adjacent to the discharge.”

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5-2-11.7(c)(3)(D)

Insert: “tentative decision” after “or revise the commissioner’s”.

Delete: “recommendation” after “tentative decision”.

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5-2-11.7(c)(3)(E)

Insert: ‘commissioner’s’ before “final decision.”

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5-2-11.7(c)(4)(B)(i)(AA)

Delete: “as allowed in 327 IAC 2-1.5-8(c)(4)(C), at the edge of a mixing volume approved in accordance with section 11.4(b)(2) and 11.4(b)(3) of this rule” after “in a stream,”

Insert: “outside of the designated mixing zone, where applicable;” after “in a stream”

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5-2-11.7(c)(B)(ii)(AA)

Delete: “in” before “a stream”

Insert: “for” before “a stream,”

Delete: “is less than” before “the amount determined by calculating the number of ..”

Insert: “that is greater than” before “the amount determined by calculating the number of..”

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5-2-11.7(c)(5)

Delete: “(C) These” and replace with “The” before “definitions cannot be used to calculate..”

Insert: “in this subdivision” before “cannot be used to calculate..”

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5-2-11.7(d)

Delete: “subsection (c)(4)(B)” after “Notwithstanding”

Insert: “this section” after “Notwithstanding”

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5-2-11.7(f)

Insert the following after (f):

tanding the other provisions of this section, the permittee may use wastewater and water treatment additives, other than BCCs, that have not been approved for use by the commissioner, on an immediate basis under the following conditions.

- (1) If the wastewater or water treatment additive is not a biocide, the use of the wastewater or water treatment additive is necessary to comply with permit conditions.
- (2) If the wastewater or water treatment additive is a biocide, the use of the wastewater or water treatment additive is necessary to prevent the loss of human life, personal injury or severe property damage.
- (3) The permittee shall orally report information on the use of the treatment additive to IDEM within twenty-four (24) hours of the time the permittee uses or begins using the treatment additive.
- (4) The permittee shall provide written notice, which contains the information required by subsection (c)(1), to IDEM within five (5) days of the time the permittee uses or begins using the treatment additive.
- (5) As used in this subsection, “wastewater treatment additive” means a chemical or mixture of chemicals added to wastewater to aid in the treatment of that wastewater.
- (6) As used in this subsection, “water treatment additive” means a chemical or mixtures of chemicals added to intake water or nonprocess water, such as water used in a boiler or noncontact cooling water, for the purpose of treating the intake or nonprocess water for use in the facility. Examples of uses for water treatment additives include slimicides, biocides, molluscides, and corrosion inhibitors.
- (7) The permittee may use the authorization under this section for the period of time necessary to meet the conditions in subdivisions (1) or (2) of this subsection.”

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